REMARKS

Claims 1-8 are pending in the application. Claims 1, 2, and 7-8 are amended hereby. Claims 1-2 and 4-8 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent Publication No. 2002/0065108 to Tsukamoto ("Tsukamoto") in view of U.S. Patent No. 6,976,217 to Vertaschitsch et al. ("Vertaschitsch"). Claim 3 is rejected under 35 U.S.C. § 103 over Tsukamoto in view of Vertaschitsch and further in view of U.S. Patent No. 5,974,334 to Jones, Jr. ("Jones"). The Applicants respectfully traverse and request reconsideration and withdrawal of the rejections thereto.

The Office Action rejects independent claims 1-4 and 7-8 under § 103 over Tsukamoto in view of Vertaschitsch. Claims 1-2 and 7-8 are independent. Each of the independent claims recite the following limitation: "extracting prescribed hardware information indicating the state of the hardware from hardware information of said portable information processing terminal." For the reasons amply stated in Applicants' Response of April 17, 2007, the entirety of which is incorporated by reference herein, Applicants urge that Tsukamoto, whether alone or in combination with Vertaschitsch, does not teach this limitation of the independent claims. At page 3, the Office Action alleges, "it is not clear from the specification what the explicit definition of what hardware information is . . . ." With all due respect, Applicants disagree, for not only is the claim term clear, but its broadest reasonable interpretation has previously been settled, as explained below.

At page 3, the Office Action notes that claim language is given the broadest reasonable interpretation. Applicants agree. That said, the Applicants respectfully direct the attention to pages 1-3 of the Response dated November 9, 2006. In that paper, the Applicants responded to the Office Action's allegation that Vertaschitsch taught "extracting prescribed hardware information from hardware information of said portable device." This was the Applicants sole argument. As Applicants explained: "Communications about user data and user actions from a telephone user interface program is not **extracting prescribed hardware information - which is information about the state of the hardware itself - from hardware information of said portable**

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information processing terminal. Hence, user data and user actions, while they can affect the state of the hardware, are not prescribed hardware information." Emphasis added.

The January 29, 2007 Office Action consented when Applicants correctly articulated the broadest reasonable interpretation. To quote the Office Action: "[Applicants'] arguments, see pages 1-3, filed November 9, 2006, with respect to the rejections of claim(s) 1-8 have been fully considered and are persuasive."

Thus, in order to further prosecution, Applicants have amended independent claims 1-2 and 7-8 to recite "extracting prescribed hardware information indicating the state of the prescribed hardware from hardware information of said portable information processing terminal." Applicants urge that this is but a clarifying amendment that reflects the broadest reasonable interpretation of the claims - an understanding confirmed in the above-recited exchange.

On this basis, the Applicants commends entry of the amendment as it does not alter the scope of the claim, but simply clarifies its broadest reasonable interpretation.

Independent claims 1-2 and 7-8 - thus amended to clarify the previously confirmed interpretation - recite "extracting prescribed hardware information indicating the state of the prescribed hardware from hardware information of said portable information processing terminal." In the Office Action's response to arguments at pages 2-5, the Office Action alleges that paragraphs 42, paragraphs 49-58, paragraphs 61-91, and Figures 7-10 teach this limitation. In particular, the Office Action cites to: TDMA decoder that separates a speech signal and a mail signal from a communication sub-signal; a memory section with storage areas for a telephone book, call origination history, call reception history, mail transmission history, and mail arrival history; a communication device editor that flags a recorded incoming call with a 1 or a 0 depending on whether a party's name is registered in a phone book in the memory, and a similar process for mail. Just as with Vertaschitsch, neither Tsukamoto's storage of user history and call history, nor the registration of a communication party in a telephone book, nor even setting a flag to 0 or 1 based on that registration amount to "information indicating the state of the hardware." To the contrary, the

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Office Action refers almost exclusively to software functionality and the contents of storage (*e.g.*, is a party's name registered in a phone book) or the actions of a communication party (*e.g.*, whether a party called or emailed) -- not determining the state of the hardware itself.

As explained above, user data and user actions, while they can affect the state of hardware, are not prescribed hardware information as they do not indicate the state of the hardware itself. Similarly, when Tsukamoto discloses a TDMA decoder that separates a speech signal and a mail signal from a communication sub-signal at paragraph 42, this is not "extracting prescribed hardware information indicating the state of the hardware," because what is "extracted," if anything, is information about the speech signal. In contrast, the present application's non-limiting examples of prescribed hardware data that indicates the state of the hardware itself (*e.g.*, information on mounting/demounting of a cradle of the portable information processing terminal; a light amount state of a display portion of the portable information processing terminal). See, *inter alia*, page 6, lines 9-24 and page 9, line 24 to page 10, line 23.

For the reasons set forth above, Tsukamoto does not teach each and every limitation of independent claims 1-2 and 7-8, and nothing in Vertaschitsch cures Tsukamoto's deficiency. Accordingly Applicants urge that independent claims 1-2 and 7-8 are presently in condition for allowance. As claims 4-6 ultimately depend from independent claim 2, Applicants urge that claims 1-2 and 4-8 are presently in condition for allowance and urge reconsideration and withdrawal of the rejections thereto.

Claim 3 has been rejected as being unpatentable over Tsukamoto in view of Vertaschitsch and further in view of Jones. However, nothing in Vertaschitsch and Jones cures the deficiency of Tsukamoto as applied to independent claim 1, from which claim 3 depends. Accordingly, Applicants respectfully submit that claim 3 is also in condition for allowance and urges reconsideration and withdrawal of the rejections thereto.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

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No fee is believed to be due for this Amendment. Should any fees be required, please charge such fees to Deposit Account No. 50-2215.

Dated: <u>October 3, 2007</u>   Respectfully submitted,

By /Brian M. McGuire/_____
Brian M. McGuire
   Registration No.: 55,445
DICKSTEIN SHAPIRO LLP
1177 Avenue of the Americas
New York, New York 10036-2714
(212) 277-6500
Attorney for Applicant